THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.2401 OF 2005

DATED: 14-09-2007

Between:

A. Veeraiah

.. Petitioner

and

The Chairman & Managing Director (Appellate Authority), A.P.S.P.D.C. Limited, Tirupathi and another.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.2401 OF 2005

ORDER:

This writ petition is filed seeking a mandamus declaring the action of the respondents in not promoting the petitioner as Junior Accounts Officer as arbitrary and illegal, and consequently to direct the respondents to promote the petitioner to the post of Junior Accounts Officer.

It appears, the petitioner joined the services of the respondent Corporation about thirty six years ago and was promoted as Upper Division Clerk with effect from 03.01.2001. According to him, he was at Sl.No.30 in the seniority list, dated 03.01.2001, in the cadre of Upper Division Clerk. While that being so, on 24.06.2002, a charge sheet was issued on him alleging that his non adherence to the procedures laid down for issuance of PR books led to defalcation of Company's funds by one late V.Venkat Reddy, and, subsequently, a punishment of deferment of one increment with cumulative effect was imposed on him on 31.01.2003. Challenging the said punishment, he preferred an appeal before the 1st respondent, upon which the punishment was modified as that of stoppage of one annual increment without cumulative effect, vide order dated 21.07.2003. According to the petitioner, the said punishment period expired by 20.07.2004 and he is entitled for promotion to the post of Junior Accounts Officer, without reference to the punishment imposed on him, but, the respondents have promoted one M. Venkata Subbaiah, who is Junior to him, as

Junior Accounts Officer, which is arbitrary and illegal. Hence, this writ petition.

This Court, by order dated 25.03.2005 in W.P.M.P.No.3256 of 2005, directed the respondents to consider the case of the petitioner for promotion to the post of Junior Accounts Officer.

In the counter filed along with the vacate stay petition filed by the respondents, it is stated that since the petitioner is not having requisite qualifications for promotion to the post of Junior Accounts Officer, his case has to be considered under unqualified quota. Further, as per the rules of the Corporation, for considering the case of an unqualified candidate for promotion to next higher category, the service of that candidate for a period of five years preceding the date on which his name is considered should be satisfactory without undergoing any punishment including 'censure' and, if there is any punishment during the said preceding five years, the satisfactory service of five years has to be reckoned duly extending the period covered under punishment. Thus, the case of the petitioner cannot be considered for promotion since his preceding five years service as on the date of consideration for promotion is not satisfactory, as he has undergone a punishment of postponement of one increment without cumulative effect, and he would become eligible for promotion only after 20.07.2005.

The learned counsel for the respondents, while reiterating the stand taken in the counter-affidavit, which had been referred to supra, further submitted that the petitioner retired from service on 31.05.2005 on attaining the age of superannuation.

I am in full agreement with the stand taken by the respondents.

Moreover, the petitioner retired from service on 31.05.2005, on attaining the age of superannuation, before he could become eligible for promotion. Therefore, nothing survives in this writ petition for adjudication and the petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

C.V. RAMULU, J

14th September, 2007.
IBL